

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: ASSESSMENT ALLOCATION RULES	DOCKET NO. RMU-01-13
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ORDER COMMENCING RULE MAKING

(Issued December 14, 2001)

Pursuant to the authority of Iowa Code §§ 17A.4, 475A.6, 476.2, 476.10, as amended by 2001 Iowa Acts, chapter 9, section 1, 476.101(10), and 546.7 (2001), the Utilities Board (Board) proposes to adopt the rules attached hereto and incorporated by reference. These rules amend 199 IAC Chapter 17, the Board's assessment allocation rules. The reasons for proposing these amendments are set forth in the attached notice of intended action.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-01-13, is commenced for purposes of receiving comments upon the proposed rules attached to this order.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

Dated at Des Moines, Iowa, this 14th day of December, 2001.

UTILITIES DIVISION [199]

Notice of Intended Action

Pursuant to Iowa Code section 476.10, as amended by 2001 Iowa Acts, chapter 9, section 1, and Iowa Code sections 475A.6, 476.2, 476.101(10), and 546.7, the Utilities Board (Board) gives notice that on December 14, 2001, the Board issued an order in Docket No. RMU-01-13, In re: Assessment Allocation Rules. The Board proposes to amend the rules in 199—chapter 17, "Assessments". The rules in chapter 17 describe and implement the method the Board uses to assess expenses incurred by the Board and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) on utilities and other parties as authorized by Iowa Code chapter 476 and section 475A.6.

The proposed amendments are intended to implement the changes to the Board's assessment allocation authority in Iowa Code section 476.10, as amended by the legislature in 2001 Iowa Acts chapter 9, section 1. In addition, the amendments are intended to clarify, correct, and update the rules where needed.

The definitions in the chapter are amended to conform to the new statute and are consolidated into one rule. The definition of "gross operating revenues" is corrected, since some utilities do not use the uniform systems of accounts. Since the only notification the Board sends to utilities is the actual invoice for the assessment, the Board proposes to rescind rule 17.4. Rule 17.5 is amended to clarify that the Board will not directly bill more than the expenses it incurs for a docket. However, the last sentence of subrule 17.5(1) is removed to reflect that if a person works overtime on a docket, the actual overtime expenses may be billed.

Finally, in Docket Nos. SPU-99-22, In re: Area Code 515 Relief Plan, and SPU-99-30, In re: Area Code 319 Relief Plan, the Board allocated expenses in those dockets pursuant to Iowa Code section 476.101(10). These proposed amendments are also intended to adopt the allocation method used in those two dockets into rule.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b" and 199 IAC 3.5, any interested person may file a written statement of position on the proposed amendments. The statement must be filed on or before January 29, 2002, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

If requested, or on its own motion after reviewing the statements, the Board will determine whether an opportunity for oral presentation should be provided.

The proposed rules are subject to the Board's waiver rule at 199 IAC 1.3.

These rules are intended to implement Iowa Code sections 475A.6, 476.2, 476.10, 476.101(10), and 546.7.

Item 1. Amend 199—Chapter 17 by adopting a new rule 17.1 as follows:

199—17.1(475A,476,546) Purpose. The purpose of this chapter is to describe and implement the method the board uses to assess expenses incurred by the board and the consumer advocate on utilities and other parties pursuant to Iowa Code sections 476.10 and 476.101(10). It also implements the method used to calculate

the assessments on certain utilities for the Iowa energy center and global warming center.

Item 2. Amend rules 17.1, 17.2, 17.3, and 17.6 as follows and move them into a new rule 17.2:

199—17.2(475A,476) Definitions. The following definitions apply to the rules in this chapter.

17.2(1) 199—17.1(475A,476) Definition of "direct assessment." A "*direct assessment*" is ~~The~~ the charge to a particular public utility person bringing a proceeding before the board or to persons participating in matters before the board:

(1) For expenses attributable to the board's duties related to such proceeding or matter incurred by the board, and

(2) For certified expenses incurred and directly chargeable by the consumer advocate in the performance of its duties related to such proceeding or matter. ~~for the purpose of determining rate matters to investigate the books, accounts, practices and activities of, or make appraisals of the property of, or to render any engineering or accounting services to any public utility; or to review the operations or annual reports of the public utility under Iowa Code section 476.31 or 476.32.~~

The term "person" includes, but is not limited to, individuals, utilities, associations, and other business entities. "Person" does not include the consumer advocate.

17.2(2) 199—17.2(475A,476) Definition of "remainder assessment." A "*remainder assessment*" is ~~The~~ the charge to all public utilities persons providing service over which the board has jurisdiction for the ~~annual~~ total expenses

~~reasonably attributable to incurred during each fiscal year in the performance of the board's duties under law and the certified expenses of the consumer advocate's duties prescribed by Iowa Code chapter 476 and section 475A.2, after deducting the direct assessments. The remainder assessment may consist of two parts: expenses that can be identified with a specific type of utility service, and expenses that cannot be so identified.~~

17.2(3) ~~199—17.3(475A,476)~~ **Definition of "overhead expenses."** *"Overhead expenses" are* All all operating costs of the board and the consumer advocate excluding salaries, ~~to same shall constitute overhead expenses.~~

17.2(4) ~~199—17.6(476)~~ **Definition of "gross operating revenues derived from intrastate public utility operations."** All revenues from intrastate operations includable in the operating revenue accounts of the prescribed uniform systems of accounts and operating revenues from the sale of heat; provided, however, that such revenues *"Gross operating revenues from intrastate operations"* include all revenues from Iowa intrastate utility operations during the last calendar year except shall not include the following: (a) ~~Uncollectible~~ uncollectible revenues; and (b) Amounts amounts included in the accounts for interdepartmental sales and rents.

Item 3. Rescind rule 17.4.

~~**199—17.4(476)** Notice of investigation and of intention to assess costs.~~
~~The board shall notify any utility to be assessed of the board's intention to assess the costs incurred in any matter for which direct assessment can be made.~~

Item 4. Renumber and amend rule 17.5 as follows:

199—17.53(476) Expenses to be included in direct assessments. In its direct assessments, the board will not bill more than costs assigned to a docket.

17.53(1) Salaries of board and the consumer advocate employees will be computed at an expertise level on an hourly rate obtained by dividing the individual's merit class average annual salary, and related benefit costs borne by the state, by the appropriate number of standard working hours for the year.

The time of all board and the consumer advocate employees engaged on the matter for which a direct assessment is to be made, whether on the property of the a public utility, in the offices of the board, or elsewhere, including travel time, will be included. ~~The maximum chargeable time per person shall not exceed the appropriate number of standard working hours for the year.~~

17.53(2) Travel expenses incurred in an investigation or in rendering services by board and the consumer advocate personnel or by others employed by the board or consumer advocate will be ~~charged to the utility~~ included. Travel expenses include costs of transportation, lodging, meals and other normal expenses attributable to traveling.

17.53(3) ~~Whenever the board or the consumer advocate finds it~~ Costs of ~~necessary to engage persons, consultants, facilities, or equipment for consulting advice, particular projects or services arising out of investigations, and cost of special services, facilities, or equipment, shall~~ will be included. ~~chargeable to the public utility under investigation.~~

17.53(4) Overhead expenses of the board and the consumer advocate ~~which are reasonably attributable to activities of the board~~ and consumer advocate ~~which~~

that can be directly assessed under Iowa Code section 476.10 or 476.101(10) will be charged to the utility included. The following method will be used to calculate the overhead expense factor used to calculate the overhead expenses reasonably attributable to activities of the board and consumer advocate.

a. The overhead expense factor used in direct billing overhead expenses will be recalculated and implemented with the July billing each year. The overhead expense factor will be determined using the following formula:

$$\begin{array}{ccc} \begin{array}{l} 1920XX \text{ Fiscal Year} \\ \text{Overhead Expense} \\ \text{Factor} \end{array} & \equiv & \frac{\begin{array}{l} 1920XX \text{ Approved Budget Fiscal} \\ \text{Year Expenditures} \end{array}}{\begin{array}{l} 1920XX \text{ Approved Budget Fiscal} \\ \text{Year Salaries} \end{array}} \end{array}$$

b. The "Approved Budget Fiscal Year Expenditures" and "Approved Budget Fiscal Year Salaries" are for those of the board and the consumer advocate added together.

c. For each merit class salary, the overhead expense factor will be multiplied by the salary computed pursuant to subrule 17.3(1) to produce the hourly rate to be charged in the direct assessment.

~~This overhead expense factor will become effective upon adoption of this rule.~~

Item 5. Amend 199—Chapter 17 by adopting a new rule 17.4 as follows:

199—17.4(476) Direct assessments.

17.4(1) The board will consider the following factors in deciding whether to directly assess a person pursuant to Iowa Code section 476.10.

a. Whether the person's intervention in a board proceeding expanded the scope of the proceeding. Expansion of the scope of the proceeding includes, but is not limited to, raising new issues, significantly expanding the scope of discovery, and significantly expanding or changing the potential remedies.

b. Whether the person intervened in a board proceeding in good faith.

c. Whether the direct assessment would discourage the person or others from initiating or participating in board proceedings.

d. The financial resources of the person.

e. The nature of the board proceeding or matter.

f. The contribution of the person's participation to the public interest.

g. Whether directly assessing costs would be fair and in the public interest.

h. Other factors deemed appropriate by the board in a particular case.

17.4(2) The board may decide not to directly assess a person after considering the factors in subrule 17.4(1).

17.4(3) In determining the financial resources of the person in 17.4(1)"d" above, the board may use revenue information previously submitted by the person to the board. If the person has not previously provided revenue information to the board, the board may request that the person submit revenue information, and if the person does not do so, may make assumptions regarding the person's financial resources for purposes of the direct assessment.

Item 6. Renumber and amend rule 17.7 as follows:

199—17.75(476) Reporting of operating revenues. Each year, the board will send an annual report form to every public utility. On or before April 1st of each year, Every every public utility shall file with the board on or before April 1 of each year its annual report that includes a verified report, on forms prescribed by the board, showing its gross operating revenues derived from intrastate public utility operations from Iowa intrastate operations during the preceding calendar year. Such revenues are to be reported on the accrual basis or the cash basis consistent with the annual report filed with the board.

Item 7. Renumber and amend rule 17.8 as follows:

199—17.86(475A,476) Compilation and billing of assessment.

17.6(1) Direct assessments. The board shall ascertain and add to the direct assessment, certified expenses incurred by the consumer advocate directly chargeable to the public utility person under Iowa Code section 475A.6. The board does not review the expenses certified to it by the consumer advocate. The board may present a bill for the direct assessment to any person either at the conclusion of the proceeding or matter, or from time to time during its progress.

17.6(2) Remainder assessments.

a. The revenues for the remainder assessment shall be compiled by the board based on the report provided pursuant to rule 17.5.

b. The board shall ascertain the total of the division's expenses incurred during each fiscal year, and add to it the certified expenses of the consumer advocate. Next, the board shall add all amounts directly assessed, pipeline assessments,

electric transmission line assessments, federal reimbursements, and miscellaneous reimbursements. This total shall be deducted from the total of the division's and consumer advocate's expenses. The remaining amount is the amount to be recovered through the remainder assessment. Subject to subparagraphs 17.6(2) "c" through "e", the board may assess the remaining amount to all persons providing service over which the board has jurisdiction and each utility assessed in proportion to its the respective gross operating revenues of such persons from Iowa intrastate operations over which the board has jurisdiction during the last calendar year. However, utilities exempt from rate regulation shall not be assessed for remainder expenses incurred during review of rate-regulated public utilities under Iowa Code section 476.31 or 476.32. Such remainder expenses shall be assessed proportionally among only the rate-regulated public utilities.

c. For purposes of determining gross operating revenues under this subrule, the board shall not include gross receipts received by a cooperative corporation or association for wholesale transactions with members of the cooperative corporation or association, provided that the members are subject to assessment by the board based upon the members' gross operating revenues, or provided that such member is an association whose members are subject to assessment by the board based upon the members' gross operating revenues.

d. If any portion of the remainder can be identified with a specific type of utility service, the board shall assess those expenses only to the entities providing that type of service over which the board has jurisdiction.

e. The remainder assessments for gas and electric Utilities not subject to rate regulation will be assessed computed at one-half the rate assessed used to compute the assessment for other persons. those subject to such regulation.

f. The board may make the remainder assessments on a quarterly basis, based upon estimates of the expenditures for the fiscal year for the division and the consumer advocate. The board shall conform the amount of the estimated prior fiscal year's assessments to the actual fiscal year expenditures not more than ninety days following the close of the fiscal year.

17.6(3) The bill or accompanying letter of transmittal to each utility shall indicate the assessable revenue for the utility, the rate at which the assessment was computed, and the assessment amount. Bills must be paid within 30 days of receipt or an objection filed in writing pursuant to Iowa Code section 476.10.

Item 8. Renumber and amend rule 17.9 as follows:

199—17.97(476) Funding of Iowa energy center and global warming center. ~~On July 1, 1991, and on or before July 1 of each year thereafter,~~ The board will send a bill to each gas and electric utility for funding the Iowa energy center and global warming center. Within 30 days of receipt of the bill, each gas and electric utility shall remit to the utilities division of the department of commerce, a check made payable to the treasurer of state for one-tenth of one percent of the total gross operating revenue during the last calendar year derived from its intrastate public utility operations for the funding of the Iowa energy center and global warming center. This remittance shall not be represented on customers' bills as a separate item.

Item 9. Amend 199—Chapter 17 by adopting a new rule 17.8 as follows:

17.8 (476) Assessments under Iowa Code section 476.101(10). The board shall allocate expenses for proceedings under section 476.101(10) among the participants using the following method.

- a. The board will identify the participants in the proceeding.
- b. Unless it makes a finding that such method is inappropriate or unjust for a particular case, the board will allocate expenses based on the regulated, exempt, deregulated, and unregulated Iowa intrastate telecommunications revenues of each participant.
- c. The most recent reports filed by public utilities who report revenues pursuant to rule 17.5 will be used if available. If the participant has not previously provided revenue information to the board, the board may request that the participant submit revenue information, and if the participant does not do so, the board may make assumptions regarding the participant's revenue for purposes of the assessment.
- d. The board may make adjustments to the revenue figures as appropriate for the particular type of case.
- e. The board may consider the factors in subrule 17.4(1) when making allocations to participants.

These rules are intended to implement Iowa Code sections 475A.6, 476.2, 476.10, 476.101(10), and 546.7.

December 14, 2001

/s/ Diane Munns
Diane Munns
Chairman